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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/205,119	12/03/1998	CHARLES A. ELDERING	8887-3004	8185
27832	7590	07/29/2005	EXAMINER	
TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME 6206 KELLERS CHURCH ROAD PIPERSVILLE, PA 18947			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/205,119

Applicant(s)

ELDERING ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 82-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 82-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>see continuation</u> . | 6) <input type="checkbox"/> Other: _____ |

The IDS from 3/30/05, 4/8/05, 4/25/05 have been considered.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 3/30/05 and 4/25/05 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Response to Arguments

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Alexander does not teach or suggest correlating a subscriber demographic with the demographic of a group such that a subscriber may be associated with that group if there is sufficient correlation (amendment pages 6-7).

Regarding applicants argument, Alexander discloses in column 30, lines 29-44), that a user profile includes demographic characteristics, and that the user's profile is compared with viewer profiles of others (groups), which contain demographics, and based on this comparison, the likelihood that a user would be

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interested in a particular subject, product, theme, movie, episode, etc is computed, thus associating a user with a group.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 82-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,177,931 to Alexander in view of U.S. Patent 5,446,919 to Wilkins.

Regarding claim 82, Alexander discloses a method for monitoring a subscribers interactions with targeted programming (the program being currently monitored, column 32, line 61-column 33, line 7, lines 27-43), the method comprising:

monitoring subscriber interactions with the targeted programming (column 32, line 61-column 33, line 7, lines 27-43);

retrieving information corresponding to the targeted programming (column 33, lines 27-43, this type of programming is utilized to determine which advertisements to display to the user within the EPG), wherein the information includes describes at least one viewer characteristic (column 30, lines 1-37)

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utilizing heuristic rules associated with the subscriber interactions, wherein the heuristic rules infer at least one subscriber demographic based on subscriber interactions (column 30, lines 1-37, the viewer profile program speculates on the user's age, marital status and has children),

correlating at least one subscriber demographic with at least one demographic of the group (column 30, lines 38-44, the program compares the individual profile with view profiles of others to determine if a user will be interested in a particular product, subject or theme), and

associating the subscriber with the group if there is sufficient correlation between the at least one subscriber demographic and the at least one demographic characteristic of the group (column 30, lines 38-44, the program compares the individual profile with view profiles of others to determine if a user will be interested in a particular product, subject or theme).

Alexander fails to disclose retrieving information associated with the targeted programming which describes at least one demographic characteristic of a group associated with the targeted program.

In an analogous art, Wilkins discloses that a user watches a program segment 200, during transmission of the program, a STB retrieves a commercial selection signal that displays three different commercials based on user demographics (user income), users with lower incomes view a Hyundai commercial, Moderate incomes view a Ford commercial, and Upper incomes view a Mercedes commercial (column 11, lines 20-41, column 12, lines 31-44),

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thus providing commercial advertisements which are of most relevance to the user's income.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Alexander to utilize the demographics characteristics as taught by Wilkins in order to provide advertisements which are relevant to a user's purchasing power.

Regarding claims 83-84, Alexander discloses that the heuristic rules are probabilistic in nature and assign a probability of a user's demographic (column 29, lines 56-column 30, line 37, the rules characterize a user's interest and demographic characteristics).

Regarding claim 85, Alexander discloses that the heuristic rules predict product interest characteristics about the subscriber and correlating the product interest characteristic with at least one demographic characteristic of the group (column 30, lines 29-44).

Regarding claims 86-87, Alexander discloses monitoring all user interactions with a TV including channel changes, volume changes record commands and associated times (column 28, lines 13-59).

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Regarding claim 88, Alexander discloses that at least one subscriber demographic is based on interactions aggregated over multiple viewing sessions (column 29, lines 22-30, column 30, lines 29-37).

Regarding claim 89, Alexander discloses at least one subscriber demographic that does not identify specific subscriber interactions (column 30, lines 29-37, over time the profile program determines a user's marital status, age, sense of humor, has children, this takes place over time and not the result of specific interactions from one session).

Regarding claim 90, Alexander discloses that the user's EPG will monitor channel changes, and the programming displayed on the channel changed too, identification of advertisements on screen, volume changes, whether or not a user changed a channel or not and the time of the channel change (column 28, lines 13-59), this information is utilized to define trails about the user (column 29, lines 31-55, column 30, lines 17-37).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



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